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INTEL/BSTZ			EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP			NIGH, JAMES D	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,354

Applicant(s)

CHEN ET AL.

Examiner

JAMES NIGH

Art Unit

3685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- _____ Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- _____ Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to application filed on 31 August 2006.

Claims 1-35 are presented for examination on the merits.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/CN05/02405, filed on 30 December, 2005.

Examiner's Comment

3. Examiner requests that Applicant remove the "further to" language that is followed by intransitive verbs that appear in many of the claims and replace with the transitive versions of verbs for clarity and in order to correct the grammar.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**
6. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-18 and 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank et al. (U.S. Patent PG Publication 2006/0106845, hereinafter referred to as 845) in view of Frank et al. (U.S. Patent PG Publication 2007/0136570, hereinafter referred to as 570).**

9. As per claim 1 a system comprising:

845 discloses a storage device to store first information that indicates whether the system is allowed to be used (0014-0016, 0018-0020);

845 discloses reviewing payment information (0014-0016, 0018-0020, 0024-0029, 0032-0036);

570 teaches disabling the processor (0036-0038).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system and method for computer-based local generic commerce and management of stored value of 845 with the computing device limiting mechanism of 570 for the purpose of making a computing device resilient to modifications.

10. As per claim 2 the system of claim 1 (as rejected above) 845 further discloses wherein the processor further to get new information to renew the first information

based on the integrity of the first information (0015-0017, 0021, 0024, 0027, 0030, 0036, 0040, 0044, 0047-0053).

11. As per claim 3 the system of claim 1 (as rejected above) 845 further discloses wherein the processor further to get new information to update the first information, in response to determining that the first information is corrupted (0036-0039).

12. As per claim 4 the system of claim 3 (as rejected above) wherein 845 teaches determining that the new information is unavailable (0034-0035, 0044-0048)

570 teaches halting the booting (0036-0038).

13. As per claim 5 the system of claim 1 (as rejected above) 845 further discloses wherein the processor further to, in response to determining that the current date is later than an expiration date in the first information, get information on a new expiration date based on a payment status of the system (0027, 0044-0048).

14. As per claim 6 the system of claim 1 (as rejected above) 845 discloses the response to being failed to get a new expiration date to renew the first information (0027, 0034-0035, 0044-0048)

570 teaches the processor further to disable the use of the system (0036-0038).

15. As per claim 7 the system of claim 1 (as rejected above) 845 further discloses wherein the processor further to get new information for renewing the first information, in response to determining from the first information that a grace period for allowing using of the system has expired. (0027, 0034-0035, 0044-0048, 0052-0053)

16. As per claim 8 the system of claim 7 (as rejected above) 845 further discloses wherein the processor further to enable the use of the system, in response to determining that the new information for renewing the first information is available (0027, 0034-0035, 0044-0048, 0052-0053).

17. As per claim 9 the system of claim 7 (as rejected above) 845 further discloses wherein the processor further to enable the use of the system based on integrity and validity of the new information (0027, 0034-0035, 0044-0048, 0052-0053).

18. As per claim 10 the system of claim 1 (as rejected above) 845 further discloses wherein the processor further to enable the use of the system, in response to determining that the first information is invalid and the invalid information indicates that the system is allowed to be further used (0027, 0034-0035, 0044-0048, 0052-0053). (Examiner notes that no step of determination has been indicated in either this claim or claim 1 on which it depends. Therefore the language "in response to determining" does not appear to limit the scope of the claim "Language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation", MPEP §2106 II C).

19. As per claim 11 the system of claim 1 (as rejected above) 845 further discloses wherein the processor further to enable the use of the system, in response to determining that the first information is valid (0027, 0034-0035, 0044-0048, 0052-0053).

20. As per claim 12 a method, comprising:

845 discloses checking validity status of a first license that comprises allowable usage information of a user device (0015-0017, 0021, 0024, 0027, 0030, 0036, 0040, 0044, 0047-0053).; and

570 teaches disabling use of the user device based on the validity status to control payment for the user device (0036-0038).,

21. As per claim 13 the method of claim 12 (as rejected above) further comprising:

845 discloses comparing current time with expiration time set in the first license to obtain the validity status (0025-0026, 0047-0049).

22. As per claim 14 the method of claim 12 (as rejected above) further comprising: comparing a number of usage times of the user device with a allowable number in the first license to check the validity status (0025-0026, 0033-0035, 0042-0050)

23. As per claim 15 the method of claim 12 (as rejected above) further comprising:

845 discloses getting a new license to update the first license, in response to determining that the first license is corrupted (0036-0039); and

845 discloses checking a validity status of the new license (0015-0017, 0021, 0024, 0027, 0030, 0036, 0040, 0044, 0047-0053).

24. As per claim 16 the method of claim 12 (as rejected above) further comprising:

845 discloses in response to determining that the first license is invalid, getting a new license to update the first license, depending on payment status associated with the user device (0015-0017, 0021, 0024-0027, 0030, 0036, 0040, 0044-0053).

25. As per claim 17 the method of claim 16 (as rejected above) further comprising:

845 discloses determining that the new license is unavailable (0034-0035, 0044-0048)

570 teaches disabling the use of the user device (0036-0038)

26. As per claim 18 the method of claim 12 (as rejected above) further comprising:

845 discloses downloading a new license from a remote server to update the first license, in response to determining that a grace period comprised in the first license has expired (0014, 0027, 0034-0035, 0044-0048, 0052-0053)

845 discloses determining that the downloading of the new license is failed (0036, 0039, 0048, 0053)

570 teaches disabling the use of the user device (0036-0038).

27. As per claim 27 the system of claim 24 (as rejected above)

845 discloses wherein the user device determines that the new license is unavailable (0034-0035, 0044-0048)

570 teaches disabling use of the user device (0036-0038)

28. As per claim 28 a machine readable medium comprising a plurality of instructions that in response to being executed result in a computing device

570 teaches halting use of the computing device (0036-0038)

based on a license stored in the computing device to control payment of the computing device, wherein the license comprises expiration information on the computing device (nonfunctional descriptive material – "Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability [T]he critical question is whether there

exists any new and unobvious functional relationship between the printed matter and the substrate", *In re Gulack*, 217 USPQ 401 (Fed. Cir. 1983), *In re Ngai*, 70 USPQ2d (Fed. Cir. 2004), *In re Lowry*, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II).

29. As per claim 29 the machine readable medium of claim 28 (as rejected above) 845 further discloses further comprising a plurality of instructions that in response to being executed result in a computing device in response to determining that the license is corrupted, getting a new license to update the corrupted license (0036-0039).

30. As per claim 30 the machine readable medium of claim 28 (as rejected above) 845 further discloses further comprising a plurality of instructions that in response to being executed result in a computing device in response to determining that the license has expired, getting a new license to renew the expired license based on payment status of the computing device (0027, 0044-0048).

31. As per claim 31 the machine readable medium of claim 28 (as rejected above) 845 further discloses further comprising a plurality of instructions that in response to being executed result in a computing device in response to determining that the license is in a grace period, issuing a warning for getting a new license (0027, 0034-0035, 0044-0048, 0052-0053)

32. As per claim 32 the machine readable medium of claim 28 (as rejected above) 845 further discloses further comprising a plurality of instructions that in response to being executed result in a computing device in response to determining that a grace period for the license has expired, downloading a new license based on payment status of the computing device (0017, 0024-0027, 0029, 0044-0048, 0050-0054).

33. As per claim 33 the machine readable medium of claim 32 (as rejected above) 845 further discloses a plurality of instructions that in response to being executed result in a computing device downloading the new license, in response to determining that the payment of the computing device is confirmed (0015-0017, 0021, 0024, 0027, 0030, 0036, 0040, 0044, 0047-0053); and

checking the validity of the new license (0015-0017, 0021, 0024, 0027, 0030, 0036, 0040, 0044, 0047-0053).

34. As per claim 34 the machine readable medium of claim 33 (as rejected above) 845 discloses determining that the new license is unavailable (0034-0035, 0044-0048)

570 teaches disabling the use of the computing device (0036-0038).

35. As per claim 35 the machine readable medium of claim 28 (as rejected above) 570 further discloses plurality of instructions that in response to being executed result in a computing device enabling the use of the computing device, in response to determining that the license is valid (0039)

36. Claims 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over 845.

37. As per claim 19 a system comprising:

845 teaches a user device that with (0015-0017, 0021, 0024, 0027, 0030, 0036, 0040, 0044, 0047-0053). ; and

845 teaches a server that issues usage parameters for the user device based on payment status of the user device (0014-0017, 0021, 0024, 0027, 0030, 0036, 0040, 0044, 0047-0053).

845 does not explicitly teach licenses. 845 does teach storing usage parameters that are typically found in a license. Software licenses that store software usage parameters are old and well known in the art (i.e. PERCs of Ginter in U.S. Patent 5892900). Therefore a predictable result of Frank would have been to store the use parameters for a resource in a software license. ("One of the ways in which a patent's subject matter can be proved obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the patent's claims", *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007)).

38. As per claim 20 the system of claim 19 (as rejected above) further comprising:

845 teaches a network that couples the user device with the server (0014-0017, 0020, 0022, 0024, 0039-0042, 0044, 0046, 0050-0054).

39. As per claim 21 the system of claim 19 (as rejected above) further comprising:

845 teaches a bank system that monitors payment status of the user device (0017, 0024-0027, 0029, 0044-0048).

40. As per claim 22 the system of claim 19 (as rejected above) 845 teaches wherein the user device further to check the validity of the usage parameters, in response to determining that the set of usage parameters is a complete one (0015-0017, 0021, 0024, 0027, 0030-0031, 0036, 0040, 0044, 0047-0053). (as per license see claim 19)

41. As per claim 23 the system of claim 19 (as rejected above) 845 teaches wherein the user device further to compare a number of usage times of the user device with a

value in the expiration information to check the validity of the usage parameters (0027, 0044-0049, 0051-0053) (as per license see claim 19).

42. As per claim 24 the system of claim 19 (as rejected above) 845 teaches wherein the user device further to in response to determining that the usage parameters are invalid, request for a new set of usage parameters from the server (0015-0017, 0021, 0024, 0027, 0030, 0036, 0040, 0044, 0047-0053). (as per license see claim 19)

43. As per claim 25 the system of claim 24 (as rejected above) 845 teaches wherein the server further to ask for the payment status from a bank system (0017, 0024-0027, 0029, 0044-0048); and

845 teaches issue the new set of usage parameters to the user device, in response to determining that the payment is confirmed by the bank system (0017, 0024-0027, 0029, 0044-0048). (as per license see claim 19)

44. As per claim 26 the system of claim 24 (as rejected above) 845 teaches wherein the user device further to getting the new set of usage parameters, in response to the server issuing the new set of usage parameters (0015-0017, 0021, 0024, 0027, 0030, 0036, 0040, 0044, 0047-0053)

and checking the validity of the new set of usage parameters (0015-0017, 0021, 0024, 0027, 0030-0031, 0036, 0040, 0044, 0047-0053) (as per license see claim 19).

Please note:

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the

specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Applicant(s) are reminded that optional or conditional elements do not narrow the claims because they can always be omitted. See *e.g.* MPEP §2106 II C: "Language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. [Emphasis in original.]; and *In re Johnston*, 435 F.3d 1381, 77 USPQ2d 1788, 1790 (Fed. Cir. 2006) ("As a matter of linguistic precision, optional elements do not narrow the claim because they can always be omitted.").

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES NIGH whose telephone number is (571)270-5486. The examiner can normally be reached on Monday-Thursday 6:45-5:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt II can be reached on 571-272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JDN

/Calvin L Hewitt II/

Supervisory Patent Examiner, Art Unit 3685